

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2089H.01I
Bill No.: HB 1406
Subject: Taxation and Revenue - General; Taxation and Revenue - Income; Tax Credits;
Revenue, Department of; Political Subdivisions; Business and Commerce;
Emergencies; Property, Real and Personal
Type: Original
Date: March 18, 2021

Bill Summary: Authorizes a tax credit for certain businesses that are shut down by a political subdivision of the state.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue Fund	\$0 or (Unknown, could exceed \$1,000,000)	\$0 or (Unknown, could exceed \$1,000,000)	\$0 or (Unknown, could exceed \$1,000,000)
Total Estimated Net Effect on General Revenue	\$0 or (Unknown, could exceed \$1,000,000)	\$0 or (Unknown, could exceed \$1,000,000)	\$0 or (Unknown, could exceed \$1,000,000)

§135.1400 tax credits due to potential future shut downs are unknown (no annual cap), but it is assumed they could exceed \$1,000,000, depending on the occurrence(s) and duration(s) of shutdowns (if any).

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

- ☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- ☐ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this proposed legislation may reduce Total State Revenues (TSR) by an unknown amount. Furthermore this proposed legislation may impact the calculation under Article X, Section 18(e).

Section 135.1400 – Tax Credit For Personal Property Tax For Businesses “Shut Down”

Officials from **B&P** state this proposed legislation creates a state tax credit for a portion of a business’s personal property tax liability during a state or local shutdown order. The tax credit will be allowed for all tax years beginning Tax Year 2021. The tax credit is limited to \$50,000 per tax payer per year.

B&P assumes that, because the tax credit would not begin until tax year 2021, this proposed legislation would not apply to state and local shutdown orders issued during Tax Year 2020. Therefore, B&P assumes that this section may reduce TSR and General Revenue (GR) by \$0 to unknown depending on whether any future shutdown orders occur.

Officials from the **Missouri Department of Revenue (DOR)** state, beginning with all tax years on or after January 1, 2021, a qualified taxpayer shall be allowed a tax credit equal to the taxpayer’s qualified amount of personal property tax. A qualified taxpayer is a business located in an area that is shut-down during the tax year by a political subdivision or government entity.

The amount of the tax credit is up to \$50,000 dollars per tax year and is based on the length of time the business is shut down. This proposed legislation outlines a table based on the days of a shut down and the percentage of personal property tax eligible for the credit.

At the time of the preparation of the fiscal note, DOR is unaware of any local shutdown orders that may be in effect and, therefore, assumes there is no fiscal impact from this proposed legislation. Should a shutdown order be issued, this proposed legislation could result in a significant fiscal impact that could exceed \$1 million.

DOR notes this proposed legislation would become effective with Tax Year 2021 and the first time a filer could claim the credit would be starting January 1, 2022 (Fiscal Year 2022).

Officials from the **Missouri State Tax Commission (STC)** anticipate an unknown fiscal impact on State of Missouri revenue. The proposed legislation proposes, as of January 1, 2021, a qualified taxpayer defined as “any business organization located in this state” shall be allowed to

claim a tax credit against personal property taxes owed against the taxpayer's state income tax liability.

The credit is a percentage of the taxpayer's total personal property tax liability included in the taxpayer's qualified amount of the duration of the taxpayer's shut down by a political subdivision. STC does not have data to determine the fiscal impact or the number of potential qualifying taxpayers under the proposed criteria.

Oversight notes this proposed legislation would provide, for all tax years beginning on or after January 1, 2021, a qualified taxpayer a tax credit against such taxpayer's state income tax liability equal to the taxpayer's qualified amount.

Oversight notes a "Qualified Taxpayer" is defined as "any business organization located in this state that has a personal property tax liability for a given tax year and that was shut down during the tax year by a political subdivision or government entity".

Oversight notes the "Qualified Amount" is defined as "for a given tax year, a percentage of the total amount of personal property tax for which a taxpayer is liable as calculated according to the table provided...".

Oversight notes the table that shall be used to calculate the tax credit is based on the following:

Duration of the Taxpayer's Shutdown	Percentage of Taxpayer's Total Personal Property Tax Liability To Determine Tax Credit
90 Days or More	100%
75 to 89 Days	83.33%
60 to 74 Days	66.67%
45 to 59 Days	50%
30 to 44 Days	33.33%
15 to 29 Days	16.67%
1 - 14 Days	0%

Oversight notes "Shut Down" is defined as "to order a closure of a business organization in this state for more than fourteen (14) days, by any political subdivision or government entity, during an official state of emergency as declared by the Governor of this state, for reasons not relating to any fault on the part of the business organization. For purposes of this subdivision, "reasons not relating to any fault on the part of a business organization" includes, but is not limited to, communicable disease spread by direct human contact such as person-to-person contact or droplet spread, but does not include violations of sanitation or food safety rules, violations of structural safety rules, or the occurrence of natural disasters such as tornadoes, floods, or earthquakes.

Oversight is unable to determine what circumstances would qualify under the “but is not limited to” provision within the definition of “Shut Down”. For purposes of this fiscal note, Oversight will assume that the definition of “Shut Down” is specific to a communicable disease spread by direct human contact.

Therefore, **Oversight** assumes, at any point after January 1, 2021, should any political subdivision or government entity order a closure of business as a result of a communicable disease spread by direct human contact, during a state of emergency, such business organization shut down will be eligible for the tax credit created so long as such business organization is located in this state.

Oversight notes Executive Order 20-19 was signed by the Governor extending the state of emergency through March 31, 2021. However, Oversight is unaware of any political subdivision or government entity having ordered business closures beginning on or after January 1, 2021 as a result of a communicable disease spread by direct human contact. Therefore, Oversight assumes, to date, no taxpayer qualifies as a “Qualified Taxpayer”.

Should any political subdivision or government entity order business closures in the future, during a state of emergency, as a result of a communicable disease spread by direct human contact, taxpayers could become “Qualified Taxpayers”.

Oversight notes the tax credit is created for all tax years beginning on or after January 1, 2021. Therefore, Oversight assumes the earliest this proposed legislation would allow for a tax credit is Tax Year 2021. Oversight notes taxpayers will not file their Tax Year 2021 tax return(s) until after January 1, 2022 (Fiscal Year 2022).

Oversight assumes future declarations of a state of emergency and future orders of business closures by political subdivisions or government entities as a result of a communicable disease spread by direct human contact cannot be predicted.

Therefore, for purposes of this fiscal note, **Oversight** will report DOR’s estimated revenue reduction to GR equal to \$0 or Unknown, could exceed \$1,000,000 beginning in Fiscal Year 2022.

Oversight assumes, should a state of emergency be declared and orders of business closures by political subdivisions or government entities occur, the fiscal impact (reduction to GR) of this proposed legislation could exceed \$250,000.

Oversight notes the provisions of this proposed legislation would sunset six (6) years after the effective date of this proposed legislation unless reauthorized by the General Assembly.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to SOS for administrative rules is less than \$5,000. SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what SOS can sustain with SOS's core budget. Therefore, SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposed legislation. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriations process.

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Oversight assumes JCAR will be able to administer any rules from this proposed legislation with existing resources.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
<u>Revenue Reduction – Section 135.1400 - Tax Credit Equal To A Percentage Of Personal Property Tax Liable For</u>	<u>\$0 or (Unknown, could exceed \$1,000,000)</u>	<u>\$0 or (Unknown, could exceed \$1,000,000)</u>	<u>\$0 or (Unknown, could exceed \$1,000,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0 or (Unknown, could exceed \$1,000,000)</u>	<u>\$0 or (Unknown, could exceed \$1,000,000)</u>	<u>\$0 or (Unknown, could exceed \$1,000,000)</u>

<u>FISCAL IMPACT –</u> <u>Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

This proposed legislation could positively impact any small business that qualifies for the tax credit created as such small business could reduce or eliminate such small business's income tax liability.

FISCAL DESCRIPTION

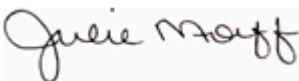
This proposed legislation provides that, beginning with all tax years on or after January 1, 2021, a qualified taxpayer shall be allowed a tax credit equal to the taxpayer's qualified amount of personal property tax. A qualified taxpayer is a business located in an area that is shut-down during the tax year by a political subdivision or government entity.

The amount of the tax credit is up to \$50,000 dollars per tax year and is based on the length of time the business is shut down.

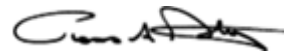
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration – Budget & Planning Division
Missouri Department of Revenue
Missouri State Tax Commission
Missouri Secretary of State's Office
Joint Committee on Administrative Rules



Julie Morff
Director
March 18, 2021



Ross Strobe
Assistant Director
March 18, 2021